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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,015	03/22/2004	Byung Bac Park	H4-C14	2234
7590 Steven J. Koundakjian Post Office Box 5190 Hemet, CA 92544-0190		09/04/2007	EXAMINER HUYNH, CARLIC K	
			ART UNIT 1617	PAPER NUMBER
			MAIL DATE 09/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,015

Applicant(s)

PARK, BYUNG BAE

Examiner

Carlic K. Huynh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-12 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, drawn to a green/red algae eliminator, classified in class 424, subclass 405.
 - II. Claim 12, drawn to a method for eliminating green and red algae by use of a green/red algae eliminator, classified in class 424, subclass 405.
2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, (1) other green/red algae eliminators can be used with the method for eliminating green and red algae, e.g. antibiotics, anti-cancer agents, and high blood pressure medications; and (2) the green/red algae eliminator can be used in other methods.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;

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- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include

- (i) an election of a invention to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the

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inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. This application contains claims directed to the following patentably distinct species:

- (1) a single disclosed species of a composite peroxide;
- (2) a single disclosed species of an agglutinant; and
- (3) a single disclosed species of an additive.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

If either Group I or II is elected, the applicant is required under 35 U.S.C. 121 to elect (1) a single disclosed species of a composite peroxide, (2) a single disclosed species of an agglutinant, and (3) a single disclosed species of an additive for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-12 are generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

A telephone call to the attorney is not required where: 1) the restriction requirement is complex, 2) the application is being prosecuted pro se, or 3) the examiner knows from past

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experience that a telephone election will not be made (MPEP § 812.01). Therefore, since this restriction requirement is considered complex, a call to the attorney for telephone election was not made.

Notice of Possible Rejoinder

4. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double

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patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlic K. Huynh whose telephone number is 571-272-5574. The examiner can normally be reached on Monday to Friday, 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ckh

S. Wang
SHENGJUN WANG
PRIMARY EXAMINER

What is claimed is:

1. A green/red algae eliminator, comprising:

a composite peroxide including at least one selected from a group consisting of metal oxide and metal hydroxide, and metal peroxide, or single metal peroxide;

wherein the metal peroxide is a product of oxidation-reduction reaction involved in composition of at least one selected from the group consisting of metal oxide and metal hydroxide, and metal peroxide.

2. The green/red algae eliminator according to claim 1, further comprising an agglutinant for agglutinating and precipitating the green algae and the red algae.

3. The green/red algae eliminator according to claim 2, further comprising loess.

4. The green/red algae eliminator according to claim 1, wherein metal contained in the metal oxide, the metal hydroxide and the metal peroxide includes alkali metal, alkali earth metal, silicon and aluminum.

5. The green/red algae eliminator according to claim 4, wherein metal contained in the metal oxide, the metal

hydroxide and the metal peroxide includes magnesium and calcium.

6. The green/red algae eliminator according to claim 1,
5 wherein the peroxide includes hydrogen hydroxide, organic acid, and inorganic acid.

7. The green/red algae eliminator according to claim 1,
wherein the reaction is carried out by adding at least one
10 additive selected from a group consisting of liquid sodium silicate, air, phosphoric acid, carbonic acid and carbon dioxide.

8. The green/red algae eliminator according to claim 7,
15 wherein the additive comprises 2 to 10 wt% of at least one selected from a group consisting of the metal oxide and metal hydroxide.

9. The green/red algae eliminator according to claim 2,
20 wherein the agglutinant is at least one selected from a group consisting of aluminum sulfate, ferrous sulfate, ferric sulfate, ferrous chloride, ferric chloride, PAC and a polymer agglutinant.

10. The green/red algae eliminator according to claim 2, wherein the green/red algae eliminator consists of 60 to 90 wt% of the composite peroxide and 10 to 40 wt% of the agglutinant.

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11. The green/red algae eliminator according to claim 3, wherein the green/red algae eliminator consists of 30 to 50 wt% of the composite peroxide, 5 to 20 wt% of the agglutinant, and 30 to 50 wt% of loess.

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12. A method for eliminating green and red algae by use of a green/red algae eliminator, wherein the green/red algae eliminator comprises a composite peroxide including at least one selected from a group consisting of metal oxide and metal hydroxide, and metal peroxide, or single metal peroxide, wherein the metal peroxide is a product of oxidation-reduction reaction involved in composition of at least one selected from the group consisting of metal oxide and metal hydroxide, and metal peroxide, the method comprising:

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a step of inputting only the green/red algae eliminator or the composition of the green/red algae eliminator and loess to target to be treated.